

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY (IDA)
MINUTES OF MEETING
March 21, 2016

Present

Board Members: Joshua Smith, Chairman
Richard Bedrosian, Michael Curry, John Penney,
Nancy Thomas
Excused: Austin DuBois
Counsel: Thomas Whyatt
Staff: Theresa Waivada, Executive Director

GUEST: Chantel Reilly

1. **Roll Call**: Chairman Smith called the meeting to order at 7:18 pm. A quorum is present.
2. **Proof of Notice of Meeting**: Accepted.
3. **Reading and Approval of minutes of the previous meetings**

Approval of the September 24, 2015 special board meeting minutes:

Mr. Penney: Motion to approve September 24, 2015 minutes
Ms. Thomas: Motion seconded.
Discussion: None.
VOTE: Carried.

Approval of the February 8, 2016 board meeting minutes:

Mr. Curry: Motion to approve December 21, 2015 minutes
Mr. Penney: Motion seconded.
Discussion: None.
VOTE: Unanimously carried.

Approval of the February 24, 2016 special board meeting minutes:

Mr. Curry: Motion to approve December 21, 2015 minutes
Mr. Penney: Motion seconded.
Discussion: None.
VOTE: Unanimously carried.

4. **Report of the Treasurer**

Treasurer Mike Curry presented the Treasurer's Report for the period ending March 21, 2016. Opening balance of the TD Bank Operating Account as of 2/8/16 is \$149,380.46; presenting four checks (#s 579-582) already paid and six checks (#s 583-588) for payment today, totaling a disbursement of \$19,618.29; deposits in the amount of \$23,816.53, for a closing balance of \$153,578.70.

The Applicant Funds Account has a beginning balance as of 2/8/2016 of \$25,000; a disbursement of \$10,862.50; leaving a balance of \$14,137.50.

The Lessor/Tenant Security Deposit Account has a beginning balance as of 2/8/2016 of \$6,000; a disbursement of \$3,600.00; leaving a balance of \$2,400.00

The Money Market Account opening balance on 2/8/2016 of \$730,300.75; interest of \$86.80; with an ending balance \$730,387.55.

Mr. Bedrosian: Motion to accept Treasurer's Report and approve payment of checks (#s 579-588) as presented
Mr. Penney: Motion seconded.
Discussion: No discussion.
VOTE: Unanimously passed.

At this time, there was an agenda change to facilitate IDA Counsel Tom Whyatt to present information regarding the current lawsuit in which the IDA is a party.

5. Report of the IDA Counsel

IDA Counsel Tom Whyatt gave a brief overview of the petition the IDA has filed seeking Leave to Intervene in litigation between Foundry Development Group, LLC and the Foundry Board of Managers. The return date was last Friday (March 18, 2016) for the other parties to respond. He hasn't heard anything from the Foundry Board of Managers, but a response from attorney Michael Sussman, representing FDG, opposed the IDA motion.

One of FDG's claims in opposition to the motion to intervene is that the claims at issue are governed by an agreement between the FDG and the Foundry Board of Managers, that the IDA is not a party to the agreement and therefore has no right to intervene in the litigation. Mr. Whyatt stated that the IDA is not seeking to intervene as a third-party beneficiary to the agreement, but as an owner of an interest (the reverter right) in the property.

The IDA has asked the court to order FDG to pay more than \$110,000+ in common charges owed to the Foundry Corporation. FDG has claimed that the Foundry Corporation has violated the agreement between the two organizations, and there is thus no management fee due at all.

Mr. Whyatt recently spoke with Mr. Barone, the attorney representing FDG in its settlement of an earlier lawsuit, who stated that the FDG has no money and doesn't see where the money will come from to pay the back common charges. Mr. Barone said that a judgement of \$3.5 million has been entered against FDG in favor of City National Bank, and any funds of FDG are subject to possible seizure by the bank.

IDA Counsel Tom Whyatt said the hearing date is April 6, 2016, 9:15 a.m. He will e-mail all interested in attending the particulars on time, place, etc.

Note was made that an article in the *Herald-Record* provided good coverage.

6. Communication(s)

The city has a \$250,000 EDA grant that was given in relation to the Hudson Valley Lighting Project. Since that project has been discontinued, the Executive Director is working in collaboration with the city to develop a new plan for the parcel. Ellen Fillo, who works for the city, stated that the EDA needs to know what is being done with the grant; the IDA is a co-applicant. EDA has suggested that we can "terminate for convenience," which would allow the city to apply again in the future.

The Executive Director asked the board if the IDA should continue with the grant or use EDA's suggestion and "terminate for convenience," subject to a later application if a new developer can be brought into the picture. Terminate for convenience was the response.

7. **Reports of Committee**

Audit-Finance Committee – Committee Chair Michael Curry gave the committee report. The committee met before the board meeting and reviewed the draft 2015 audit. The committee unanimously recommends to the full board to adopt the 2015 audit.

On a motion made by Michael Curry, seconded by John Penney, with no further discussion or opposition, Resolution 2016-03-21-01 was unanimously passed by roll call.

Governance Committee – Committee Chair Josh Smith gave the committee report. The committee met before the board meeting and reviewed the 2016 Mission Statement and Performance Measurements, dated January 1 to December 31, 2016, and the 2015 Measurement, Performance and Operations report. The committee unanimously recommends to the full board to adopt these reports.

On a motion made by Michael Curry, seconded by John Penney, with no further discussion or opposition, Resolution 2016-03-21-02 was unanimously passed by roll call.

8. **Report of the Executive Director**

Executive Director Teri Waivada advised the City has received a proposal for mixed-use at the waterfront.

The agency asked the city for information for a proposed easement on 105 West Street property. This will require the city undertaking a survey of the property and providing data on the easement to be included in the agency's deed.

The Director advised the agency of her pending resignation and proposal to remain as consultant to the agency on development and projects. She suggested that the Agency establish a position of Recording Secretary with responsibilities for the day-to-day operations of the agency.

9. **Adjournment**

A motion to adjourn the meeting was made by John Penney, seconded by Nancy Thomas, and unanimously passed.

The next meeting of Agency will be on May 16, 2016.